IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY NINTH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE Mr. JUSTICE C.V.RAMULU

WRIT PETITION No.16458 of 1999

Between:

K. Devendar Reddy, S/o Pratap Reddy,
51 years, Bank Employee, Resident of Hyderabad.

..... PETITIONER

AND

1 Andhra Bank, Rep. by its Chairman,
Saifabad, Hyderabad.
2 Assistant General Manager (DM)-cum-Appellate Authority,

Personnel Department, Andhra Bank,
Head Office, Hyderabad.
3 The Chief Manager - cum - Disciplinary Authority, Zonal Office,
Warangal, Warangal District.

....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to declare the Proceedings in Lr. No.666/20/V/141/623, dated 24-11-1998 passed by the second respondent herein dismissing my appeal, filed against dismissal order No.239/20/V/159/2753, dated 30-9-1997 passed by the third respondent herein, as illegal, arbitrary and unjust by issuing a Writ of Mandamus appropriate writ, order or direction and pass such other order or orders, as may be deemed fit and proper.

Counsel for the Petitioner: Mr. M.V.S.SURESH KUMAR

Counsel for the Respondents: Mr. NUTY RAM MOHAN RAO

The Court made the following :

ORDER:

This Writ Petition is filed seeking a Mandamus to declare the Order of the 2nd respondent dated 24-11-1998 confirming the Order passed by the 3rd respondent dated 30-9-1997 as arbitrary and illegal.

It is the case of the petitioner that he joined the respondent-Andhra Bank in the year 1971 as Clerk-cum-Cashier. Subsequently, he was promoted as Officer of JMGS-I cadre in the year 1980 and further promoted as MMGS-II cadre in the year 1984. He was posted as Branch Manager of Vavilala Branch during the year 1984. From there, he was transferred to the Regional Office at Warangal and subsequently posted as a Branch Manager at Kazipet. He worked to the satisfaction of all the authorities and everybody appreciated his work. There was no remark at any point of time in his entire service. While so, by an Order dated 7-10-1995 he was placed under suspension, pending enquiry on some baseless charges. A charge sheet was issued to him on 19-10-1995 framing the following charges against him.

i. While working as Manager, Kazipet Branch during the year 1990, you have issued Bank Guarantees on behalf of Sri R. Narayana Reddy and others (BG Nos:90/21, 90/22, 90/23, 90/24,90/25, 90/26, 90/27 and 90/28) far exceeding your discretionary powers and without any prior sanction/confirmation of your action by Zonal Office, Warangal. While issuing the said BGs you did not obtain the signatures of Sri R Narayana Reddy on the counter guarantees. The said guarantees were invoked and paid by the Branch and Bank was compelled to file suits for an amount of Rs.7,68,581-00 (being the liability on account of suit filed accounts as on 01-02-94) for realization. Your aforesaid acts of issuance of Bank Guarantees indiscriminately far exceeding your powers and in violation of the laid down norms of the Bank, thereby compelling the Bank to file suits for huge sums of Rs.7,68,581-00, indicates

that you have failed to protect the interests of the Bank and failed to discharge***and constitutes misconduct on your part as per Regulation 3(1) and 24 of ABOE (Conduct) Regulations,1982.

ii. You have obtained a deposit loan No.90/176 for Rs.1,10,000-00 on 24-05-90 in the name of Sri A.Sanjeeva Reddy fraudulently and misappropriated the amount by drawing Rs.10,000/- in cash and obtaining a Demand Draft for the remaining amount of Rs.1,00,000/- on Bhongir Branch and encashed the same on 25-5-90. Your aforesaid acts are considered prejudicial to the interest of the Bank constituting misconduct on your part as per Regulation 3(1) r/w Regulation 24 of ABOE (Conduct) Regulations,1982.

iii. You have allowed 6 crop loans on 20-09-90 (Crop Loan Nos.90/2 to 90/7) amounting to a total of Rs.58,000/- without properly verifying the identity of the borrowers. You have also credited the said amount of Rs.58,000/- to DL A/c.No.90/176 favouring A Sanjeeva Reddy, by adjustment in cash. Similarly, you have allowed 4 crop loans on 1-10-90 (Crop Loan Nos.90/9 to 90/12) amounting to a total of Rs.38,000/- without properly verifying the identity of the borrowers. You have also credited the said amount of Rs.38,000/- to DL A/c No.90/176 Fvg: Sri A Sanjeeva Reddy, by adjustment in cash, which indicates the Benami nature of the transactions. Your aforesaid acts constitute misconduct as per Regulation 3(1) r/w Regulation 24 of ABOE (Conduct) Regulations,1982.

The petitioner submitted his explanation for the said charge sheet and thereafter, the respondents conducted a detailed enquiry into the matter. The disciplinary authority, after considering the Enquiry Officer's report and following the procedure has passed an Order dated 30-9-1997 dismissing the petitioner from service of the Bank for the misconduct proved. Aggrieved by the same, the petitioner preferred an appeal before the 2nd respondent unsuccessfully. Hence, this Writ Petition.

It is the contention of the petitioner that the enquiry was not properly conducted and absolutely there was no evidence to prove the charges. Both the disciplinary authority and the appellate authority have failed to look into the fact that there was no evidence to prove the charges. Assuming that the charges are proved, the punishment of dismissal from service is grave in nature and disproportionate to that of the misconduct proved against him, since he had put in about 27 years of clean service by that time and admittedly, this was the only misconduct attributed to him.

A detailed counter affidavit has been filed on behalf of the respondents denying the allegations made by the petitioner and asserting that the charges

framed against the petitioner are grave in nature. The enquiry was properly conducted and no interference with the punishment for the grave misconduct committed by the petitioner can be made. It also cannot be said that the punishment imposed is disproportionate to that of the misconduct proved.

I have given my earnest consideration to the respective submissions made by the learned counsel on either side and perused the entire material made available on record including the impugned Orders.

At the outset, I am of the considered opinion that the order of the disciplinary authority dated 30-9-1997 as confirmed by an order dated 24-11-1998 of the appellate authority does not deserve any interference at the hands of this Court under Article 226 of the Constitution of India. Under charge No.1, the petitioner cleared the bank guarantees for Rs.7,92,000/- splitting into 8 transactions against one and the same individual i.e. one R. Narayana Reddy. According to the respondent-Bank, the petitioner has no power to give the bank guarantee for more than Rs.1,00,000/-. Therefore, with a deceitful intention and to do undue favour to the said Narayana Reddy cleared the bank guarantee by splitting into 8 units of Rs.99,000/- each. The petitioner did not bring it to the notice of the Court, whether any discretionary power is vested in him to give bank guarantee for more than Rs.1,00,000/-. In fact, it was accepted that there was no power vested in him nor he has taken clearance from the higher authorities while doing so. Therefore, he has exercised the discretion vested in him for extraneous reasons. This charge was proved.

The second charge is that the petitioner had taken loan fraudulently in the name of one A.Sanjeeva Reddy i.e. for Rs.1,10,000/-. According to the petitioner, it was not proved and there was no evidence to that effect and the said Sanjeeva Reddy was not examined. However, it was not denied that it is the petitioner, who cleared the loan in favour of the said Sanjeeva Reddy. Nothing prevented the petitioner from examining the said Sanjeeva Reddy to prove his innocence. Such a course of action was not adopted by the petitioner, except saying that he did not issue any fake loans. In fact, the whole of the enquiry, in this case, was emanated from the letter given by the said Sanjeeva Reddy saying that he did not take any loan against KTD No.90/25, dated 18-1-1990. However, in the bank, there is an account stands in the name of A. Sanjeeva Reddy and a loan was granted and

further it is noticed that on the reverse of the debit voucher the signature of the petitioner is found and the petitioner had taken Rs.10,000/- in cash, out of the deposit loan amount of Rs.1,10,000/-. For the remaining amount of Rs.1,00,000/-, a Demand Draft was taken on Bhongir Branch of the Bank and encashed the same on 25-5-1990. As stated above, the deposit holder, namely, A. Sanjeeva Reddy by letter dated 25-8-1995 had complained that he never took any loan against the said KTD and did not part with the original deposit receipt until 14-11-1991 i.e. the date of cancellation of the deposit. The very act of the petitioner in taking Rs.10,000/- in cash out of the said loan, by signing on the reverse side of the debit voucher, was not denied.

The third charge was that the petitioner raised 10 crop loans in benami names for a total sum of Rs.88,000/- and credited the proceeds to the loan account of Sanjeeva Reddy i.e. Deposit Loan A/c No.90/176. The petitioner himself remitted a sum of Rs.18,570.60 ps. to the credit of the said deposit loan account on 6-10-1990 in order to close the said Account. He has also drawn a sum of Rs.18,000/- from his personal S.B. Account No.8500 for the said purpose and the balance of Rs.570.60 was paid in cash and thus the Deposit Loan Account was closed. It is interesting to note that the said loan of Rs.1,10,000/- was raised on 24-5-1990 and the account was closed after the 10 crop loans were sanctioned as benami loans on 25-5-1990. These are all the matters of record. No further evidence is necessary. Of course, the records were produced before the Enquiry Officer and they form part and parcel of the enquiry proceedings. The petitioner has raised the crop loans so as to accommodate himself for remitting the amount to the credit of Deposit Loan Account No.90/176 raised by him in the name of A.Sanjeeva Reddy. Five out of six crop loans were closed by the third party viz., N.S.Rao, who also made the payment in the Agricultural Gold Loan Account No.90/5 standing in the name of the wife of the petitioner on 10-8-1992. This clearly indicates the benami nature of the crop loans. Therefore, the contention of the learned counsel for the petitioner that this is a case of no evidence cannot be accepted. There is ample evidence to prove the misconduct on the part of the petitioner. Further, this is also not a case of perverse finding of the disciplinary authority. There is a perfect match and co-relation between the loan taken in the name of one Sanjeeva Reddy for Rs.1,10,000/- and the same was redeemed by way of raising crop loans in benami names and also crediting some amount from his own account to the said Deposit Loan Account No.90/176. In the facts and circumstances of the case, the petitioner was dealing with the funds of

a public sector Bank and though there was no past misconduct to the credit of the petitioner, that itself does not inspire the confidence of the Court, in the nature of the events of misconduct committed by the petitioner, to take any lenient view and to hold that the petitioner is entitled for any relief. That apart, the acts committed by the petitioner are pre-meditated. Firstly, the petitioner had taken loan in the name of one A. Sanjeeva Reddy and thereafter by raising fictitious crop loans tried to redeem the said loan by directly crediting the amounts to the Deposit Loan Account No.90/176. In these circumstances, the punishment of dismissal from service is in commensurate with the misconduct alleged and proved. Therefore, the contention of the learned counsel for the petitioner that assuming that the charges are proved, the punishment imposed was disproportionate to that of the misconduct also cannot be countenanced.

For all the above reasons, the Writ Petition is devoid of merits and liable to be dismissed. Accordingly, the Writ Petition is dismissed. No order as to costs.

-06-2005

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ASSISTANT REGISTRAR

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SECTION OFFICER

To

1 The Chairman, Andhra Bank,
Saifabad, Hyderabad.

2 Assistant General Manager (DM)-cum-Appellate Authority,

Personnel Department, Andhra Bank,
Head Office, Hyderabad.

3 The Chief Manager - cum - Disciplinary Authority, Zonal Office,
Warangal, Warangal District.

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